

**Smithfield Board of Adjustment
Minutes
Thursday, November 30, 2006
6:30 P.M., Town Hall, Council Room**

Members Present:

John Parrish (Chairman)
Paul Worley (Vice-Chairman)
Eddie Foy
Chap Ragland
Martha Wooten

Members Absent:

Staff Present:

Paul Embler
Latanya Merritt

Chairman Parrish opened the public meeting.

APPROVAL OF MINUTES FROM SEPTEMBER 2006.

Mr. Ragland made a motion that was seconded by Ms. Wooten to approve the minutes as written. The vote was unanimous.

All persons wishing to speak were duly sworn.

BA-06-11 Greenwood Development Co. The applicant is requesting a 7 foot variance from the required 8 foot transitional landscape yard for the construction of a drive-thru window at an existing commercial development within the B-3 (Business) zoning district. The property is located on the southeast side of the intersection of North Bright Leaf Boulevard and Peedin Road. The property is further identified as NCPIN# 2604-23-1624.

Mr. Embler asked the Board to review the petition and take action in accordance with the Findings of Fact for a 7 foot variance to the required 8 foot transitional landscape yard.

Chairman Parrish asked what type of business is going into the building, where they would need a drive-thru window.

Mr. Embler stated it is our understanding that it is going to be a National Coffee Store chain with a drive-thru window. The actual proposal on the building is a glass frontage that will face Peedin Road. There will be four bays in the building, which will possibly be occupied by four tenants.

Chairman Parrish asked do you know of any opposition?

Mr. Embler stated I know of none.

Mr. Ragland asked if the coffee chain would be using the drive-thru and are they requesting to change the plan for this drive-thru?

Mr. Embler stated that the developer is requesting the variance. The Planning Board and Town Council have already approved the special use permit. The variance that this Board is giving is strictly for the drive that serves the drive-thru window.

Mr. Embler stated that normally this Board would have reviewed the case before Town Council.

Mr. Embler stated that Mr. Greenwood's intent was to attend the meeting tonight, but due to the weather out in the Northeast and mid America. He does send his regards.

Chairman Parrish closed the public meeting.

Mr. Foy made a motion that was seconded by Mr. Worley to move to the Finding of Fact.

After reviewing the Finding of Fact:

- (a)** There are exceptional conditions pertaining to the particular piece of property in question because of factors such as its shape, size, or topography, that are not applicable to other lands or structures in the same district, or there is a peculiar characteristic of an establishment which makes the parking and/or loading requirements of this ordinance unrealistic; *all members said true.*
- (b)** Granting the variance requested will not confer upon the applicant any special privileges that are denied to other residents of the district in which the property is located; *all members said true.*
- (c)** A literal interpretation of the provisions of this ordinance would deprive the applicant of rights commonly enjoyed by other residents of the district in which the property is located; *all members said true.*
- (d)** The requested variance will be in harmony with the purpose and intent of this ordinance and will not be injurious to the neighborhood or to the general welfare; *all members said true.*
- (e)** The special circumstances are not the results of actions of the applicant;
- (f)** The variance requested is the minimum variance that will make possible the legal use of the land, building, or structure; *all members said true.*
- (g)** The variance is not a request to permit a use, which is not a permitted or conditional use in the district involved; *all members said true.*

Mr. Foy made a motion that was seconded by Mr. Worley to approve the request for a variance from the required 8 foot transitional landscape yard for the

construction of a drive-thru window at an existing commercial development within the B-3 zoning district. The vote was unanimous.

BA-06-12 Conzuela Guinn: The applicant is requesting a conditional use permit to allow for an in-home day care on property within an R-10 (Residential) zoning district. The property is located at 39 White Oak Drive, approximately 475 feet southwest of its intersection with Camelia Drive. The property is further identified as NCPIN# 2604-27-1252.

Planning Staff recommends approval of the proposed in-home daycare with the conditions that a fenced play area be provided in the rear of the home to be used for a daycare.

Mr. Embler asked the Board to review the petition and take action in accordance with the Findings of Fact for a Conditional Use Permit for an in-home daycare.

Mr. Foy asked who regulates the hour of operation?

Mr. Embler stated that in the past this Board has opted to establish hours of operation on in-home daycares that were permitted. If it is not specified it is 24 hours a day.

Ms. Wooten asked what are the specifications for handicap on a proposal such as this?

Mr. Embler stated that the county would direct the handicap specifications.

Mr. Worley asked if there would be an ingress and egress?

Mr. Embler stated that the Town does not regulate how you have to access and egress the property. The ordinance states that you have to have adequate off street parking and two parking spaces have to be provided on the property. Our concerns are the safety issues.

Chairman Parrish asked what would the hours of operation be?

Ms. Conzuela Guinn a resident of 39 White Oak Drive, being duly sworn, stated the hours of operation would be from 6:30 am to 6:00 pm.

Ms. Wooten asked what is the maximum number of student would be allowed in the daycare?

Ms. Guinn stated that the maximum by State is six, but she is planning to have only four, two children of her own and two from outside the home.

Mr. Embler stated that the State regulates the amount of children that can be allowed in the daycare, we look at it from the code-enforcement point of view.

Chairman asked if there would be a problem complying with having a fence place at the rear of the home?

Ms. Gwinn stated that she would comply and have a fence placed at the rear of the home. She stated that the previous owner had the basement area converted into a daycare, which she would also use for her daycare. The daycare is at ground level and the entrance is in the rear of the home.

Mr. Embler asked the proposal for drop-off and pick-up would be in the rear of the home?

Ms. Guinn stated that drop-off and pick-up for the children would be in the rear of the home.

Chairman Parrish asked if anyone else would like to speak.

Mrs. Linda Thornton Stern a resident of 40 White Oak Drive, being duly sworn, stated that on behalf of the residence of North View we would like to see the request for an in-home daycare at 39 White Oak Drive be denied. Reasons being, zoning issues, devalue of the property, increased traffic flow/congestion, the increased danger because the community does not have sidewalks and most importantly, the neighborhood covenant.

Mr. Foy asked when was the covenant drawn?

Mrs. Stern stated that covenant was drawn in 1970 by the developer. The covenant is good for thirty years and is suppose to renew itself every ten years.

Mrs. Stern stated that she was not aware that the previous homeowner did not have a permit.

Ms. Guinn stated that Child Care Resources told her that at the time the previous homeowner was licensed by the State, she did not have to go through this process.

Mr. Jimmy Hughes a resident of 63 White Oak Drive, being duly sworn, stated that he was not aware that the previous homeowner was running an in-home daycare. He stated that he was against having an in-home daycare in the community.

Mr. Braxton Duncan a resident of 45 White Oak Drive, being duly sworn, stated that his concerns are the safety issues with vehicles coming in and out of the area. He stated that he was against the approval of an in-home daycare.

Ms. Guinn stated that there are regulations. She stated that she was given a checklist, and a Childcare Specialist would come to the property to go over everything on the list to make sure everything is complete before she could be issued her license by the State. She stated that if the Board granted the permit, She would certainly take into consideration the concerns of her neighbors.

Mr. Larry Stanley a resident of White Oak Drive, being duly sworn, stated that he was against having an in-home daycare in the community.

Mr. Jerry Parnell a resident of 20 White Oak Drive, being duly sworn, stated that White Oak Drive is a very active road. With all the vehicles that travel this road it is dangerous for everyone.

Mr. Ben Bunch a resident of 43, White Oak Drive, being duly sworn, stated that there is not adequate parking on the side of the road. He stated that he did not want to see an in-home daycare come into the neighborhood.

Mrs. Ola Osborne a resident of 65 White Oak Drive, being duly sworn, stated that she did not want to have an in-home daycare in the community.

Mr. James Earp a resident of 38 White Oak Drive, Being duly sworn, stated that the streets are no feasible; they are to narrow and dangerous. Both exits to the neighborhood have curves in the road adding even more danger. He stated that his main concern is safety and he did not want to have an in-home daycare approved for that reason.

Ms. Guinn stated that she had considered the views and concerns of her neighbors and she did not want to disrupt the harmony of the neighborhood. Therefore, she withdrew her request for a conditional use permit to allow for an in-home daycare.

Chairman Parrish accepted Ms. Guinn's withdraw and closed the public hearing.

Old Business.

There was none.

New Business.

There was none.

Adjournment.

Being nothing further, Ms. Wooten made a motion that was seconded by Mr. Worley to adjourn. The vote was unanimous. The meeting was adjourned. The next Board of Adjustment meeting will be held January 25, 2007.